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8 UNITED STATES DISTRICT COURT
9 WESTERN DISTRICT OF WASHINGTON
10 AT SEATTLE

11 SANJAY CHAKRAVARTY, et al.,

12 Plaintiffs,

13 v.

14 ERIC PETERSON, et al.

15 Defendants.

16 CASE NO. C20-1576 MJP

17 ORDER GRANTING ERIC
18 PETERSON'S MOTION FOR
19 PARTIAL SUMMARY JUDGMENT

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21 This matter comes before the Court on Defendant Eric Peterson's Motion for Partial
22 Summary Judgment. (Dkt. No. 27.) Having reviewed the Motion, Plaintiffs' Opposition (Dkt.
23 No. 32), Peterson's Reply (Dkt. No. 33), and the relevant portions of the record, the Court
24 GRANTS the Motion.

25 **BACKGROUND**

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27 Plaintiffs Sanjay Chakravarty and Txley Inc. allege that Eric Peterson violated
28 “Chakravarty’s right to be free from discrimination on the basis of his skin color or national

1 origin in the public bidding process.” (First Amended Complaint (FAC) ¶ 3 (Dkt. No. 17).)¹
2 Peterson is the facilities manager for Skagit County, having previously worked for the City of
3 Burlington in the Facilities Management Division. (Declaration of Eric Peterson ¶¶ 16-17 (Dkt.
4 No. 28).)

5 Plaintiffs allege that Peterson engaged in discriminatory conduct while Peterson was with
6 Burlington. In a discovery response, Plaintiffs state that in May 2017, Chakravarty conducted an
7 amicable phone call with Peterson where Chakravarty introduced himself as “Jay” rather than
8 Sanjay. (Ex. N to Peterson Decl. (Dkt. No. 28-14 at 4).) Chakravarty claims that when he then
9 met Peterson face-to-face on June 20, 2017, Peterson was rude and dismissive and would not
10 make eye contact. (Id. (Dkt. No. 28-14 at 4-5); see Declaration of Sanjay Chakravarty ¶ 5 (Dkt.
11 No. 32-2).) Peterson claims this did not occur and that if it did, he did not treat Chakravarty any
12 differently than he would anyone else. (Peterson Decl. ¶ 7.) Chakravarty also states that on June
13 29, 2017, he attempted to meet Peterson in person, but Peterson slammed a door in his face. (Ex.
14 N to Peterson Decl. (Dkt. No. 28-14 at 5).) Chakravarty’s declaration is far less specific about
15 the incident or its date. (Chakravarty Decl. ¶ 5.) Peterson denies that he had this contact and
16 notes that the doors of his office were “commercial doors with mechanical door closure devices”
17 that “cannot be slammed.” (Peterson Decl. ¶ 9.) He also notes inconsistencies in the
18 documentation provided by Chakravarty in discovery about the date of the incident itself.
19 (Peterson Decl. ¶ 10.) Chakravarty clarifies that they are not his notes. (Chakravarty Decl. ¶ 9.)

20 After Peterson began to work for Skagit County, Plaintiffs allege that Peterson engaged
21 in bid-rigging, setting the bid criteria in such a way as to exclude Txley Inc. and the products it
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23 ¹ The Court refers to the First Amended Complaint, which was the operative complaint at the
24 time Peterson filed his motion for partial summary judgment.

1 sold. (FAC ¶¶ 24-26, 28-31.) When Peterson joined Skagit County, the County had already
2 entered into a one-year contract with Txley for cleaning supplies. (FAC ¶ 22.) The contract
3 expired in April 2020, and Peterson sent out a new bid. (FAC ¶ 24.) Plaintiffs allege that Peterson
4 sent out the new bid to exclude Txley by specifying products sold by Txley's competitor, Bay City
5 Supply, that could not be substituted, and by imposing a time-in-business requirement that excluded
6 Txley. (FAC ¶¶ 28-30.) Peterson states that he had no ability to change the product requirements
7 and that the eleven products in question could not be substituted. (Peterson Decl. ¶¶ 27-29.) He
8 also states that he chose the 10-year business requirement for appearances only and did not know
9 how many years Txley had been in business. (*Id.* ¶ 23.)

10 After the County received the responses to the bid, Peterson and his supervisor, Ken
11 Hansen, determined to resubmit the bid to address supply-chain issues. (*Id.* ¶¶ 35-36.)
12 Chakravarty states that he called Hansen to complain about the bid requirements and that this led
13 to the re-bid. (Ex. N to Peterson Decl. (Dkt. No. 28-14 at 7).) Peterson states that he was not
14 aware that Chakravarty had complained to Hansen about the first bid. (*Id.* ¶ 33.) After receiving
15 responses to the second bid, the County ended up canceling the second bid and extending the
16 existing contract with Txley but at higher prices than Txley demanded. (*Id.* ¶¶ 38-39.) Plaintiffs
17 allege on information and belief that Peterson favors Txley's competitor, Bay City Supply, and
18 has conspired with its employees through various meetings to favor Bay City Supply. (FAC ¶¶
19 31-34.) Peterson denies these allegations and claims he has only had coffee once with an
20 employee of Bay City Supply. (Peterson Decl. ¶¶ 41-42.)

21 ANALYSIS

22 A. Legal Standard

23 Summary judgment is proper "if the pleadings, the discovery and disclosure materials on
24 file, and any affidavits show that there is no genuine issue as to any material fact and that the

1 movant is entitled to judgment as a matter of law.” Fed. R. Civ. P. 56(c). In determining whether
2 an issue of fact exists, the Court must view all evidence in the light most favorable to the
3 nonmoving party and draw all reasonable inferences in that party’s favor. Anderson v. Liberty
4 Lobby, Inc., 477 U.S. 242, 248-50 (1986). A genuine issue of material fact exists where there is
5 sufficient evidence for a reasonable factfinder to find for the nonmoving party. Id. at 248. The
6 moving party bears the initial burden of showing that there is no evidence which supports an
7 element essential to the nonmovant’s claim. Celotex Corp. v. Catrett, 477 U.S. 317, 322 (1986).
8 Once the movant has met this burden, the nonmoving party then must show that there is a
9 genuine issue for trial. Anderson, 477 U.S. at 250. If the nonmoving party fails to establish the
10 existence of a genuine issue of material fact, “the moving party is entitled to judgment as a
11 matter of law.” Celotex, 477 U.S. at 323-24.

12 **B. Plaintiffs’ Civil Rights Claim**

13 Plaintiffs allege that Peterson has engaged in intentional discrimination. (FAC ¶¶ 40-54.)
14 Though the First Amended Complaint does not identify a specific statute or constitutional
15 provision, Plaintiffs’ Second Amended Complaint clarifies that Plaintiffs’ claims against
16 Peterson are brought under 42 U.S.C. § 1981. (Compare FAC ¶¶ 40-54 with Second Amended
17 Complaint ¶¶ 57-62 (Dkt. No. 34).) The Court agrees with Peterson that Plaintiffs have failed to
18 provide sufficient evidence to support a claim under Section 1981 against Peterson.

19 Section 1981 provides that all persons “shall have the same right . . . to make and enforce
20 contracts . . . as is enjoyed by white citizens.” 42 U.S.C. § 1981(a). Claims brought under
21 Section 1981 are limited to and require proof of intentional racial discrimination. Gay v. Waiters’
22 & Dairy Lunchmen’s Union, Loc. No. 30, 694 F.2d 531, 536, 538 (9th Cir. 1982); see Evans v.
23 McKay, 869 F.2d 1341, 1344 (9th Cir. 1989). “To prevail, a plaintiff must initially plead and
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1 ultimately prove that, but for race, it would not have suffered the loss of a legally protected
2 right.” Comcast Corp. v. Nat'l Ass'n of Afr. Am.-Owned Media, ___ U.S. ___, 140 S. Ct. 1009,
3 1019, 206 L. Ed. 2d 356 (2020). “[T]he focus of the judicial inquiry must be whether the plaintiff
4 has proven by a preponderance of evidence facts from which the court must infer, absent
5 rebuttal, that the defendant was more likely than not motivated by a discriminatory animus.”
6 Gay, 694 F.2d at 538.

7 To perform this inquiry, the Court applies the McDonnell Douglas burden-shifting
8 analysis. Lindsey v. SLT Los Angeles, LLC, 447 F.3d 1138, 1144-45 (9th Cir. 2006) (citing
9 McDonnell Douglas Corp. v. Green, 411 U.S. 792, 802-03 (1973)). The plaintiff bears the initial
10 burden of establishing a prima facie case of discrimination. “The proof required to establish a
11 prima facie case is ‘minimal and does not even need to rise to the level of a preponderance of the
12 evidence.’” Id. at 1144 (quoting Chuang v. Univ. of Cal. Davis, Bd. of Trustees, 225 F.3d 1115,
13 1124 (9th Cir. 2000)). “[I]f the plaintiff satisfies the initial burden of establishing a prima facie
14 case of racial discrimination, the burden shifts to the defendant to prove it had a legitimate non-
15 discriminatory reason for the adverse action.” Id. “If the defendant meets that burden, the
16 plaintiff must prove that such a reason was merely a pretext for intentional discrimination.” Id.
17 And the plaintiff must also show proof that “defendant’s conduct did in fact cause the plaintiff’s
18 injury. . . .” Univ. of Texas Sw. Med. Ctr. v. Nassar, 570 U.S. 338, 346 (2013).

19 Plaintiffs have failed to present any evidence of discrimination sufficient to oppose the
20 motion for summary judgment. Plaintiffs’ opposition brief contains no citation to evidence or
21 explanation of what evidence supports the claims. The opposition instead relies entirely on
22 attorney argument, which is inadequate to raise a genuine dispute of material fact precluding
23 summary judgment in Peterson’s favor. The only evidence in the record are Chakravarty’s
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1 interrogatory responses that Peterson filed with his motion and the declaration Chakravarty filed
2 in support of the opposition. None of this is cited by Plaintiffs in their opposition. Viewed in the
3 light most favorable to Plaintiffs, the declaration and discovery responses show, at best, a prima
4 facie claim of intentional discrimination as to Peterson’s conduct while employed by Burlington.
5 But Peterson has shown legitimate and unrebutted non-discriminatory explanations for the
6 alleged conduct sufficient to warrant summary judgment. See Lindsey, 447 F.3d at 1144. And
7 Plaintiffs have failed to identify evidence of damages traceable to the alleged misconduct. This
8 warrants summary judgment in Peterson’s favor as to the Burlington-related Section 1981 claim.
9 See Nassar, 570 U.S. at 346. Additionally, there is no prima facie evidence of intentional
10 discrimination as to the bids Peterson sent out while employed at Skagit County. Even if
11 Plaintiffs had shown prima facie evidence, Peterson has provided unrebutted and legitimate non-
12 discriminatory explanations for the conduct at issue. See Lindsey, 447 F.3d at 1144. And, again,
13 there is no evidence of damages. See Nassar, 570 U.S. at 346. Peterson is therefore entitled to
14 judgment as a matter of law in his favor on Plaintiffs’ Section 1981 claims in full. The Court
15 GRANTS the Motion.

CONCLUSION

17 Plaintiffs have failed to raise a dispute of material fact to support their Section 1981
18 claims against Peterson. The Court GRANTS Peterson's Motion for Partial Summary Judgment
19 and Peterson is entitled to judgment as a matter of law on Plaintiffs' Section 1981 claims.

20 The clerk is ordered to provide copies of this order to all counsel.

21 | Dated May 5, 2021.

Wesley P. Belman

Marsha J. Pechman
United States Senior District Judge